



WISCONSIN REGULATORY DIGEST

Volume 13, No. 1 **A Publication of the** **PSYCHOLOGY EXAMINING BOARD** **DECEMBER, 2000**

Whistleblower Law

1999 WISCONSIN ACT 176 went into effect on June 2, 2000. The full text of the act follows:

AN ACT *to amend* 111.322 (2m) (a) and 111.322 (2m) (b); and *to create* 106.06 (6), 146.997 and 230.45 (1) (L) of the statutes; **relating to:** disciplinary action against an employee of a health care facility or a health care provider who reports a violation of the law or a violation of a clinical or ethical standard by the health care facility or health care provider or by an employee of the health care facility or health care provider and providing a penalty.

*The people of the state of Wisconsin,
represented in senate and assembly, do enact
as follows:*

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SECTION 1. 106.06 (6) of the statutes is created to read:

106.06 (6) The division shall receive complaints under s. 146.997 (4) (a) of disciplinary action taken in violation of s. 146.997 (3) and shall process the complaints in the same manner that employment discrimination complaints are processed under s. 111.39.

SECTION 2. 111.322 (2m) (a) of the statutes is amended to read:

111.322 (2m) (a) The individual files a complaint or attempts to enforce any right under s. 103.02, 103.10, 103.13, 103.28, 103.32, 103.455, 103.50, 104.12, 109.03, 109.07 or, 109.075 or 146.997 or ss. 101.58 to 101.599 or 103.64 to 103.82.

SECTION 3. 111.322 (2m) (b) of the statutes is amended to read: 111.322 **(2m)** (b) The individual testifies or assists in any action or proceeding held under or to enforce any right under s. 103.02, 103.10, 103.13, 103.28, 103.32, 103.455, 103.50, 104.12, 109.03, 109.07 or, 109.075 or 146.997 or ss. 101.58 to 101.599 or 103.64 to 103.82.

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SECTION 4. 146.997 of the statutes is created to read:

146.997 Health care worker protection. (1)
DEFINITIONS. In this section:

(a) “Department” means the department of workforce development.

(b) “Disciplinary action” has the meaning given in s. 230.80 (2).

(c) “Health care facility” means a facility, as defined in s. 647.01 (4), or any hospital, nursing home, community-based residential facility, county home, county infirmary, county hospital, county mental health complex, tuberculosis sanatorium or other place licensed or approved by the department of health and family services under s. 49.70, 49.71, 49.72, 50.03, 50.35, 51.08, 51.09, 58.06, 252.073 or 252.076 or a facility under s. 45.365, 51.05, 51.06, 233.40, 233.41, 233.42 or 252.10.

(d) “Health care provider” means any of the following:

1. A nurse licensed under ch. 441.
2. A chiropractor licensed under ch. 446.
3. A dentist licensed under ch. 447.
4. A physician, podiatrist or physical therapist licensed under ch. 448.
5. An occupational therapist, occupational therapy assistant, physician assistant or respiratory care practitioner certified under ch. 448.
6. A dietician certified under subch. V of ch. 448.
7. An optometrist licensed under ch. 449.
8. A pharmacist licensed under ch. 450.
9. An acupuncturist certified under ch. 451.
10. A psychologist licensed under ch. 455.
11. A social worker, marriage and family therapist or professional counselor certified under ch. 457.
12. A speech-language pathologist or audiologist licensed under subch. II of ch. 459 or a speech and language pathologist licensed by the department of public instruction.

13. A massage therapist or bodyworker issued a license of registration under subch. XI of ch. 440.

14. An emergency medical technician licensed under s. 146.50 (5) or a first responder.

15. A partnership of any providers specified under subds. 1. to 14.

16. A corporation or limited liability company of any providers specified under subds. 1. to 14. that provides health care services.

17. An operational cooperative sickness care plan organized under ss. 185.981 to 185.985 that directly provides services through salaried employees in its own facility.

18. A hospice licensed under subch. IV of ch. 50

19. A rural medical center, as defined in s. 50.50 (11).

20. A home health agency, as defined in s. 50.49 (1)(a).

(2) **REPORTING PROTECTED.** (a) Any employe of a health care facility or of a health care provider who is aware of any information, the disclosure of which is not expressly prohibited by any state law or rule or any federal law or regulation, that would lead a reasonable person to believe any of the following may report that information to any agency, as defined in s. 111.32 (6) (a), of the state; to any professionally recognized accrediting or standard-setting body that has accredited, certified or otherwise approved the health care facility or health care provider; to any officer or director of the health care facility or health care provider; or to any employe of the health care facility or health care provider who is in a supervisory capacity or in a position to take corrective action:

1. That the health care facility or health care provider or any employe of the health care facility or health care provider has violated any state law or rule or federal law or regulation.

2. That there exists any situation in which the quality of any health care service provided by the health care facility or health care provider or by any employe of the health care facility or health care provider violates any standard established by any state law or rule or federal law or regulation or any clinical or ethical standard established by a professionally recognized accrediting or standard-setting body and poses a potential risk to public health or safety.

(b) An agency or accrediting or standard-setting body that receives a report under par. (a) shall, within 5 days after receiving the report, notify the health care facility or health provider that is the subject of the report, in writing, that a report alleging a violation specified in par. (a) 1. or 2. has been received and provide the health care facility or health care provider with a written

summary of the contents of the report, unless the agency, or accrediting or standard-setting body determines that providing that notification and summary would jeopardize an ongoing investigation of a violation alleged in the report. The notification and summary may not disclose the identity of the person who made the report.

(c) Any employee of a health care facility or health care provider may initiate, participate in or testify in any action or proceeding in which a violation specified in par. (a) 1. or 2. is alleged.

(d) Any employee of a health care facility or health care provider may provide any information relating to an alleged violation specified in par. (a) 1. or 2. to any legislator or legislative committee.

(3) DISCIPLINARY ACTION PROHIBITED.

(a) No health care facility or health care provider and no employee of a health care facility or health care provider may take disciplinary action against, or threaten to take disciplinary action against, any person because the person reported in good faith any information under sub. (2) (a), in good faith initiated, participated in or testified in any action or proceeding under sub. (2) (c) or provided in good faith any information under sub. (2) (d) or because the health care facility, health care provider or employee believes that the person reported in good faith any information under sub. (2) (a), in good faith initiated, participated in or testified in any action or proceeding under sub. (2) (c) or provided in good faith any information under sub. (2) (d).

(b) No health care facility or health care provider and no employee of a health care facility or health care provider may take disciplinary action against, or threaten to take disciplinary action against, any person on whose behalf another person reported in good faith any information under sub. (2) (a), in good faith initiated, participated in or testified in any action or proceeding under sub. (2) (c) or provided in good faith any information under sub. (2) (d) or because the health care facility, health care provider or employee believes that another person reported in good faith any information under sub. (2) (a), in good faith initiated, participated in or testified in any action or proceeding under sub. (2) (c) or provided in good faith any information under sub. (2) (d) on that person's behalf.

(c) For purposes of pars. (a) and (b), an employee is not acting in good faith if the employee reports any information under sub. (2) (a) that the

employee knows or should know is false or misleading, initiates, participates in or testifies in any action or proceeding under sub. (2) (c) based on information that the employee knows or should know is false or misleading or provides any information under sub. (2) (d) that the employee knows or should know is false or misleading.

(4) ENFORCEMENT. (a) Subject to par. (b), any employee of a health care facility or health care provider who is subjected to disciplinary action, or who is threatened with disciplinary action, in violation of sub. (3) may file a complaint with the department under s. 106.06 (6). If the department finds that a violation of sub. (3) has been committed, the department may take such action under s. 111.39 as will effectuate the purpose of this section.

(b) Any employee of a health care facility operated by an agency, as defined in s. 111.32(6) (a), of the state who is subjected to disciplinary action, or who is threatened with disciplinary action, in violation of sub. (3) may file a complaint with the personnel commission under s. 230.45(1) (L). If the personnel commission finds that a violation of sub. (3) has been committed, the personnel commission may take such action under s. 111.39 as will effectuate the purpose of this section.

(c) Section 111.322 (2m) applies to a disciplinary action arising in connection with any proceeding under par. (a) or (b).

(5) CIVIL PENALTY. Any health care facility or health care provider and any employee of a health care facility or health care provider who takes disciplinary action against, or who threatens to take disciplinary action against, any person in violation of sub. (3) may be required to forfeit not more than \$1,000 for a first violation, not more than \$5,000 for a violation committed within 12 months of a previous violation and not more than \$10,000 for a violation committed within 12 months of 2 or more previous violations. The 12-month period shall be measured by using the dates of the violations that resulted in convictions.

(6) POSTING OF NOTICE. Each health care facility and health care provider shall post, in one or more conspicuous places where notices to employees are customarily posted, a notice in a form approved by the department setting forth employees' rights under this section. Any health care facility or health care provider that violates this subsection shall forfeit not more than \$100 for each offense.

SECTION 5. 230.45 (1) (L) of the statutes is created to read: 230.45 (1) (L) Receive complaints under s. 146.997(4) (a) of disciplinary action taken in violation of s. 146.997 (3) and, except as provided in sub. (1m), process the complaints in the same manner that employment discrimination complaints are processed under s. 111.39.

SECTION 6. Nonstatutory provisions.

(1) EMPLOYE NOTIFICATION. Within 90 days after the effective date of this subsection, each health care facility, as defined in section 146.997 (1) (b) of the statutes, as created by this act, and each health care provider, as defined in section 146.997 (1) (c) of the statutes, as created by this act, shall inform its employees of their rights and remedies under this act.

SECTION 7. Initial applicability.

(1) COLLECTIVE BARGAINING AGREEMENTS. This act first applies to an employee of a health care facility, as defined in section 146.997 (1) (b) of the statutes, as created by this act, or of a health care provider, as defined in section 146.997 (1) (c) of the statutes, as created by this act, who is affected by a collective bargaining agreement that contains provisions inconsistent with this act on the day on which the collective bargaining agreement expires or is extended, modified or renewed, whichever occurs first.

Important Message From the Department of Workforce Development

Failure to pay court-ordered child support may result in the suspension or non-renewal of professional licenses, including those issued by the Department of Regulation and Licensing and regulatory board.

Recently enacted Wisconsin laws (mandated by the federal government) give local child support agencies the ability to request suspension or denial of licenses of people whose names appear on the Child Support Lien Docket and who owe more than \$1,000 or three months' worth of child support.

Past-due child support creates a lien against all of a payer's titled property. The lien is entered into Wisconsin's Child Support Lien Docket when past-due support reaches a specified threshold. In October 2000, the threshold was \$30,000 in past-due support. It is being lowered in stages; the subsequent stage, in January 2001, is \$20,000.

Child support agencies will notify payers at the time their names are added to the Child Support Lien Docket and prior to initiating license suspension action. Satisfaction (payment in full) of the child support lien, or entering into and complying with a plan to pay off the past-due support, will halt license suspension action.

For more information about Child Support Liens and license suspension, please contact your local child support agency.

Disciplines

JAMES D MILLER PHD

OCONOMOWOC WI

REVOKED

Convicted of sexual exploitation by therapist and first degree sexual assault of a child. Effective 9/12/2000. Sec. 455.09(1)(g), Stats. Psy 5.01(5) Case #LS0009123PSY

KIM S FINCK PhD

SHEBOYGAN WI

REVOKED/COSTS

Failed to avoid a dual relationship or a relationship that may impair her objectivity or create a conflict of interest, thereby constituting unprofessional conduct. Right to renew license revoked. Effective 4/14/2000. Psy 5.01(2) Case #LS9909271PSY

RUSSELL R KANIA

MILWAUKEE WI

SUSPENDED/COSTS

Failed to obtain 40 contact hours of board-approved continuing education during the biennium immediately preceding his application for renewal of his license. Suspended until he submits evidence to the board of having complied with the continuing education requirements. Effective 10/11/2000. Psy 4.01 Case #LS0007111PSY

THOMAS EVERT

JANESVILLE WI

SURRENDER/COSTS

Failed to obtain 40 contact hours of board-approved continuing education during the biennium immediately preceding his application for renewal for the 10/1/99 through 9/30/01 biennium. Surrendered his license for the private practice of school psychology. Effective 10/11/2000. Sec. 455.09(1)(g), Stats. Psy 4.01 Case #LS0008311PSY

Telephone Directory

**Automated Phone System for
Chiropractic, Acupuncture, Massage
Therapists/ Bodyworkers, Music Art &
Dance Therapists, Marriage & Family
Therapists, Nursing, Optometry,
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Social Workers: (608) 266-0145.**

Press 1 To Request an Application

Press 2 Status of a Pending Application

Press 3 Verification of Credential Holder

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To Request the Wisconsin Statutes
and Administrative Codebook

Complaint Against a Credential
Holder

Renewal of a Credential

Legal Questions

Press 5 to repeat this menu or if you are
calling from a rotary telephone,
stay on the line and your call will
be answered in the order received.

FAX: (608) 261-7083

Wisconsin Statutes and Code

Copies of the Psychology Examining Board
Statutes and Administrative Code can be
ordered from the Department. Include your
name, address, county and a check payable
to the Department of Regulation and
Licensing in the amount of \$5.28. The latest
edition is dated May, 2000.

Quick Keys

The following are voice mail “**short cuts.**”

To request a license application for your
profession, just dial (608) 266-0145, then
enter the Quick Key numbers below for the
profession you want:

1-4-1	Doctoral in Psychology	
1-4-2	Cont.	Ed.
	Information/Application	
1-4-3	Private Practice	School
	Psychologist	

Verifications

All requests for verification of license status
must be in writing. There is no charge for
this service.

For our new “online Verification of
Credential Holders” visit our Website at
www.drl.state.wi.us and click on the
“Credential Holder Query” button.

Endorsements

Requests for endorsements to other states
must be in writing. The cost is \$10. Please
make check or money order payable to the
Department of Regulation and Licensing.

Meeting Dates:

2000: 12/15

Visit the Department’s Web Site

<http://www.drl.state.wi.us>

Send comments to dorl@drl.state.wi.us

Digest on Web Site

December, 1997, June, 1998, December,
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